



Direct Communication Project

Resource No. 9

Executive Order 12721 on Noncompetitive Eligibility

The following information has been developed to familiarize Foreign Service family members, personnel officers, and hiring officials with the terms of Executive Order (E.O.) 12721. This information is important to family members because it explains how work performed in an overseas mission can help them to gain employment with the Federal Government when residing in the United States. This information is important to hiring officials and personnel officers who are often called upon to interpret the executive order and to post personnel officers who may be asked to document waiver requests.

What is Executive Order 12721 Eligibility?

Executive order 12721 enables certain eligible family members (EFMs) to be appointed non-competitively to the Civil Service once they return to the U.S. Those individuals may be appointed to any Federal occupation and grade level for which qualified. Agencies may waive the requirement for a written test after determining that the duties and responsibilities of an applicant's overseas position were similar enough to make a written test unnecessary.

Who is eligible?

To be eligible, an EFM must have completed **52 weeks of service** in an appropriated fund position(s) performed under a local hire appointment(s) overseas. Work must be performed during the time the family member was accompanying a sponsor officially assigned to an overseas area and the EFM must have received a fully successful or better (or equivalent) performance rating.

An individual must have been a family member at the time s/he met the overseas service requirement, but does not need to be a family member at the time of noncompetitive appointment in the United States. A family member is a spouse or unmarried child under the age of 23. Any law, Executive Order, or regulation that disqualifies an applicant for appointment in the competitive service also disqualifies the applicant for appointment under E.O. 12721.

What kind of work earns credit?

Creditable service may have been under more than one appointment and need not be continuous. If the individual is separated and subsequently re-employed

(e.g., terminated in June and re-hired in rolls does not count toward the 52 weeks. Leave without pay (LWOP) taken during the time an individual is in the overseas area, that does not exceed 6 months in any calendar year, is credited on the same basis as time worked. Regularly scheduled part-time work is credited as full-time service. Intermittent employment is credited for each day actually worked. Work performed under contract is not credited under this order.

What is the time limit for using the eligibility?

An individual is eligible for temporary, term, or career-conditional appointment(s) under E.O. 12721 for: *a period of 3 years following the date of return from overseas to the United States to resume residence.*

What about extensions?

An agency may extend an individual's appointment eligibility beyond 3 years for periods equivalent to the time the individual was accompanying a sponsor on official assignment to an area of the United States with no significant opportunities for Federal employment or the time an individual was incapacitated for employment.

Are there service waivers?

Up to 26 weeks of the 52-week service requirement may be waived when the head of an agency (or designee) that employed the family member overseas certifies that the family member's expected 52 weeks of employment were cut short because of a non-personal situation that necessitated the relocation of the family member from the overseas area. The certification must include the number of

September), the time spent off the agency's weeks waived. For this purpose, a non-personal situation includes disaster, conflict, terrorism or the threat of terrorism, and those situations when a family member is forced to return to the United States because of military deployment, drawdowns, or other management-initiated actions. Situations such as ill health or personal interest in relocating are not considered eligibility factors. Family members are advised to request a *written waiver certification* from the employing agency.

How does an EFM use Executive Order 12721 when applying for Federal jobs?

Vacancy announcements state the *area of consideration* or who can apply. Executive order eligibles can apply for those positions which include status candidates and noncompetitive eligibles. Applicants must submit all paperwork requested on the announcement, attach a letter stating their eligibility, and include copies of personnel actions and performance appraisals that document their overseas experience. When applying for positions outside the Department of State, a copy of this announcement may be included in the application package to assist the hiring official. EFMs on LWOP from the Department of State or on a Family Member Appointment (FMA) in Intermittent Non-Work Status (INWS), are considered current employees of the Department of State for hiring purposes, and may apply for vacancies limited to "Department of State Employees Only." EFMs should be aware that there are other categories of eligibility that compete with E.O. 12721, including preference for displaced government workers, known as Interagency Career Transition Assistance Plan (ICTAP) eligibles.

Further Information

The complete text of Executive Order 12721 is found in 5 CFR part 315.608 as amended on March 8, 1996. EFMs applying for Federal jobs are welcome to contact the Family Liaison Office. Each applicant's situation is unique and it is useful to consult on current regulations.

Family Liaison Office

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Reminder: Hand carry all personnel documents!